Triangle Appliance and Furniture Mart, Inc. and Louis J. Ruffalo *and* Teamsters, Chauffeurs and Helpers Union, Local No. 43, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. Case 30-CA-6983

December 16, 1982

DECISION AND ORDER

BY CHAIRMAN VAN DE WATER AND MEMBERS JENKINS AND HUNTER

Upon a charge filed on February 22, 1982, by Teamsters, Chauffeurs and Helpers Union, Local No. 43, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (herein called the Union), and duly served on Triangle Appliance and Furniture Mart, Inc. (herein called Respondent Triangle), the General Counsel of the National Labor Relations Board, by the Regional Director for Region 30, issued a complaint on March 30, 1982, against Respondent Triangle, alleging that Respondent Triangle had engaged in, and was engaging in, unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Thereafter, the Regional Director issued an amendment to complaint on May 28, 1982, which added Louis J. Ruffalo (herein called Respondent Ruffalo), president and sole stockholder of Respondent Triangle, to the caption as a co-respondent, and which modified paragraph 2(b) of the complaint based upon commerce information received from Respondent Triangle. Copies of the charge, complaint, amendment to complaint, and notice of hearing before an administrative law judge were duly served on the parties to this proceeding.

With respect to the unfair labor practices, the complaint alleges, *inter alia*, that, by virtue of a certification issued on July 1, 1970, and a collective-bargaining agreement with the Union, effective by its terms for the period from October 1, 1979, through October 1, 1982, the Union has been and is now the exclusive bargaining representative of all employees in the following appropriate unit:

> All employees of the Employer, including office clerical employees; but excluding guards and supervisors as defined in the Act.

The complaint further alleges that Respondent Ruffalo, as Respondent Triangle's president, and Ralph Ruffalo, as Respondent Triangle's store manager, have been at all times material herein supervisors of Respondent Triangle within the meaning of Section 2(11) of the Act and agents of Respondent Triangle within the meaning of Section 2(13) of the Act. The complaint also alleges that Respondent Triangle has violated Section 8(a)(1) of the Act by coercing its salesmen into accepting a reduction in the rates of commission provided in the collective-bargaining agreement and by threatening employees with termination if they pursued a wage increase due October 1, 1981, as provided in the collective-bargaining agreement, and that, by such conduct, Respondent Triangle also violated Section 8(a)(5) and (1) of the Act in that it bypassed the Union and dealt directly with the employees in the above-described unit. The complaint also alleges that Respondent Triangle has failed and refused, and continues to fail and refuse, to bargain collectively and in good faith with the Union as the representative of the employees in the above-described unit in violation of Section 8(a)(5) and (1) by, since in or about September 1981, unilaterally failing to pay the rates of commission to salesmen as provided in the collective-bargaining agreement and by, since on or about October 1, 1981, failing to pay the contractually prescribed hourly wage rates. Subsequently, Respondent Triangle timely filed an answer to the complaint admitting in part, and denying in part, the allegations contained in the complaint. Neither Respondent Triangle nor Respondent Ruffalo filed an answer to the amendment to complaint.

Thereafter, on June 21, 1982, the General Counsel filed with the Board in Washington, D.C., a Motion for Summary Judgment, with attached exhibits. On June 29, 1982, the Board issued an order transferring the proceeding to itself in Washington, D.C., and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Neither Respondent Triangle nor Respondent Ruffalo filed a response to the Notice To Show Cause.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

Respondent Triangle's answer to the complaint denies that it was served with the charge as alleged in paragraph 1 of the complaint. The affidavit of service and certified receipt shows that a copy of the charge was served by certified mail on Respondent Triangle on February 23, 1982, and received on February 24, 1982.

Respondent Triangle admits the allegation, contained in paragraph 2(a) of the complaint, that it is a Wisconsin corporation engaged in the retail sale of appliances and furniture in Kenosha, Wisconsin.

In its answer, Respondent Triangle alleges that it has insufficient information with regard to the allegations contained in paragraph 2(b) and (c) which allege (as amended by the amendment to complaint) that, during the calendar year 1981, a representative period, Respondent Triangle had gross sales in excess of $500,000 and made purchases in excess of $50,000 from firms which, in turn, purchased those goods directly from suppliers located outside the State of Wisconsin, and that Respondent Triangle is engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. However, Respondent Triangle executed a "Questionnaire on Commerce Information" on April 20, 1982, in which it admitted that, during the calendar year 1981, it had gross sales in excess of $500,000 and made purchases in excess of $50,000 from firms which, in turn, purchased those goods directly from suppliers located outside the State of Wisconsin.

In its answer, Respondent Triangle admits the allegation, contained in paragraph 3 of the complaint, that the Union is a labor organization within the meaning of Section 2(5) of the Act.

Respondent Triangle does not deny the allegations, contained in paragraph 4 of the complaint, that, at all times material herein, Louis J. Ruffalo has been president of Respondent Triangle and Ralph Ruffalo has been store manager of Respondent Triangle and that they are supervisors within the meaning of Section 2(11) of the Act and agents within the meaning of Section 2(13) of the Act. Accordingly, the allegations of paragraph 4 of the complaint are deemed to be true.

Respondent Triangle denies the allegation, contained in paragraph 5 of the complaint, that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All employees of the Employer, including office clerical employees; but excluding guards and supervisors as defined in the Act.

Respondent Triangle denies this on the basis that the Union allegedly represents only 9 of its 22 employees and that only 1 of its clerical staff is a union member. However, Respondent Triangle 's allegation does not constitute a denial of the appropriateness of the unit description, and the complaint allegation is therefore deemed to be true and accurate.

Respondent Triangle admits the allegation, contained in paragraph 6(a) of the complaint, that the Union has been certified as the exclusive collective-bargaining representative of the employees in the unit described in paragraph 5 of the complaint since July 1, 1970. Respondent Triangle does not respond to the allegation, contained in paragraph 6(b) of the complaint, that the Union, since July 1, 1970, has been, and is, the exclusive representative, under Section 9(a) of the Act, of the employees in the unit described in paragraph 5 of the complaint for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment. This allegation of the complaint is therefore deemed to be true.

Respondent Triangle admits in its answer the allegations, contained in paragraph 7 of the complaint, that, on or about October 1, 1979, the Union and Respondent Triangle entered into a collective-bargaining agreement relating to the wages, hours, and other terms and conditions of employment of the employees of Respondent Triangle in the unit described in paragraph 5 of the complaint, which agreement was to remain in effect until October 1, 1982.

Respondent Triangle denies the allegation, contained in paragraph 8(a) of the complaint, that it coerced its salesmen, in or about September 1981, into accepting a reduction in the rates of commission provided for in the applicable collective-bargaining agreement. However, according to Respondent Ruffalo's affidavit, Ralph Ruffalo, in or about September 1981, told the salesmen that they would have to accept an announced reduction in their rates of commission or lose their jobs. This statement constitutes an admission of the allegation. In Respondent Triangle's answer to the complaint, it also denies the allegation, contained in paragraph 8(b) of the complaint, that on or about December 5, 1981, it threatened employees with termination if they pursued the wage increase due October 1, 1981, provided for in the collective-bargaining agreement. However, in Respondent Ruffalo's affidavit, he relates that, on December 5, 1981, he told employees that Respondent Triangle had to terminate them unless they agreed to work under the present conditions, meaning the rates of pay prior to the scheduled October 1 increase, thereby admitting the allegation.

Paragraph 13 of the complaint alleges that Respondent Triangle violated Section 8(a)(1) of the Act by the acts and conduct described in paragraph 8(a) and (b) of the complaint. In its answer, Respondent Triangle generally denies the allegation. Such conduct, however, clearly violates Sec-

tion 8(a)(1) of the Act. Respondent Triangle explains in its answer to the complaint that, in its alleged dealings with the employees, it "merely explained a financial situation." By this, Respondent Triangle appears to imply that its statements were not intended to be threatening or coercive. Such is no defense to the above allegations inasmuch as threats of reprisal are unlawful if their reasonable tendency is coercive in effect.[1]

In its answer to the allegation contained in paragraph 11 of the complaint, that by the acts and conduct described in complaint paragraph 8(a) and (b) Respondent Triangle bypassed the Union and dealt directly with its employees, Respondent Triangle alleges that its announced decision was not challenged by the union steward or the Union. Notwithstanding that Respondent Triangle's affirmative allegation does not constitute a denial of the complaint allegation, Respondent Ruffalo's affidavit refutes Respondent Triangle's assertion. It admits receipt, on October 20, 1981, of a grievance dated October 14, 1981, filed by Union President Charles Schwanke, and protesting Respondent Triangle's unilateral changes. It also admits that both Ralph Ruffalo and Respondent Ruffalo met with employees, not with the Union, and announced changes in contractually prescribed rates of commission and wages. Paragraph 14 of the complaint, denied by Respondent Triangle, alleges that the conduct alleged in paragraphs 8(a) and (b) and 11 violates Section 8(a)(5) and (1) of the Act. Such conduct clearly violates that section of the Act. *Limpco Mfg. Inc. and/or Cast Products, Inc.*, 225 NLRB 987, 990 (1976).

In Respondent Triangle's answer to the complaint, it admits the allegations, contained in paragraph 9(a) and (b) of the complaint, that it failed to pay both the contractually required rates of commission to its salesmen and the hourly wage rates to its employees. Respondent Triangle denies the allegation, contained in paragraph 10 of the complaint, that it engaged in the above conduct without prior notice to or bargaining with the Union. However, Respondent Ruffalo admits in his affidavit that he did not talk to the Union about the wage and commission rate changes, inasmuch as he did not believe that he had to bargain with the Union. Such constitutes an admission of the above complaint allegation. Respondent Triangle does not deny the complaint allegation, contained in paragraph 12(a), that it has failed to continue in full force and effect all the terms and conditions of the collective-bargaining agreement; or paragraphs 12(b), that such terms and conditions were mandatory subjects of bargaining; or paragraph 12(c), that such conduct was effectuated without serving a written notice of the proposed agreement modifications on the Union. Instead, Respondent Triangle affirmatively alleges that the Union knew of, understood, and agreed to the conduct; such does not serve to deny that the conduct occurred as alleged, nor the well-established legal conclusion that rates of pay are a mandatory subject of bargaining.

In its answer, Respondent Triangle denies the allegation, contained in paragraph 14 of the complaint, that, by the acts and conduct described in complaint paragraphs 9(a) and (b), 10, and 12(a), (b), and (c), it has failed and refused, and is failing and refusing, to bargain collectively with the Union, and thereby has been engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act. Respondent Triangle asserts that, allegedly, at no time was it challenged by either the union steward or the Union for an explanation or with a request to bargain with respect to the changes. We find no support for Respondent Triangle's contention that it has not refused to bargain because the Union has never requested bargaining about the changes.[2] This is plainly incorrect, as Respondent Ruffalo, in his affidavit, admitted receipt on October 20, 1981, of a grievance protesting Respondent Triangle's unilateral changes. Respondent Triangle seeks to excuse its alleged conduct by stating that such action was taken because of "market conditions" and outstanding "financial obligations." Respondent Triangle offers, as an attempted mitigation, its claim that "(t)he manufacturers provided additional commissions [on certain products] . . . to offset the commission paid by our company;" and that it told employees that "[Respondent Triangle] would gladly pay the increase in wages when out [sic] losses were decreased and could make this possible." It is well established, however, that an employer acts in derogation of its bargaining obligation under Section 8(d) of the Act, and thereby violates Section 8(a)(5) and (1) of the Act, when, during the life of a collective-bargaining agreement between it and a union, it unilaterally modifies or otherwise repudiates terms and conditions of employment contained in the agreement.[3] It is equally well established

[1] *International Paper Company, Inc.*, 228 NLRB 1137, 1141 (1977).

[2] See *Rose Arbor Manor, a Division of Geriatrics, Inc.*, 242 NLRB 795, 798 (1979). There the Board said, "The issue in cases such as this is 'whether in the light of all the circumstances there existed reasonable opportunity for the Union to have bargained on the question before unilateral action was taken by the Employer.'" The Board concluded that, based on the respondent's flat denial of the union's right to bargain over health insurance, it was "plain that a formal request to bargain by the Union would have been futile at the time." *Id.*

[3] *FWD Corporation*, 257 NLRB 1300 (1981); *Morelli Construction Company*, 240 NLRB 1190 (1979).

that economic necessity is not cognizable as a defense to the unilateral repudiation of monetary provisions in the collective-bargaining agreement.[4]

Based on the foregoing, we therefore find that all of the allegations in the complaint are true and accurate and grant summary judgment as to all allegations in the complaint against Respondent Triangle.

Although Louis J. Ruffalo was added to the caption of this case by the General Counsel's amendment to the complaint, there are no allegations in the complaint or the amendment thereto which would justify imposing individual liability upon him. Accordingly, to the degree the General Counsel may seek to hold Respondent Ruffalo liable individually, we deny that aspect of the Motion for Summary Judgment.

On the basis of the entire record, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF RESPONDENT TRIANGLE

Respondent Triangle, a Wisconsin corporation with an office and place of business in Kenosha, Wisconsin, is engaged in retail sale of appliances and furniture. During the calendar year ending December 31, 1981, a representative period, Respondent Triangle had gross sales in excess of $500,000 and, during the same period, made purchases in excess of $50,000 from firms which, in turn, purchased these goods directly from suppliers located outside the State of Wisconsin.

We find, on the basis of the foregoing, that Respondent Triangle is, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction.

II. THE LABOR ORGANIZATION INVOLVED

Teamsters, Chauffeurs and Helpers Union, Local No. 43, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

A. *The Representative Status of the Union*

The following employees of Respondent Triangle constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All employees of the Employer, including office clerical employees; but excluding guards and supervisors as defined in the Act.

Since July 1, 1970, and at all times material herein, the Union, by virtue of Section 9(a) of the Act, has been, and is, the exclusive collective-bargaining representative of the employees in this unit. The Union and Respondent Triangle are parties to a collective-bargaining agreement, effective by its terms for the period from October 1, 1979, to October 1, 1982.

B. *The 8(a)(1) Violations*

In or about September 1981, Respondent Triangle, acting through its supervisor and agent, Ralph Ruffalo, coerced its salesmen into accepting a reduction in the rates of commission provided for in the collective-bargaining agreement. Further, on or about December 5, 1981, Respondent Triangle, acting through its supervisor and agent, Respondent Ruffalo, threatened employees with termination if they pursued the wage increase due October 1, 1981, as provided in the collective-bargaining agreement. Accordingly, we find that Respondent Triangle, by this conduct, has violated Section 8(a)(1) of the Act.

C. *The 8(a)(5) and (1) Violations*

In or about September 1981, Respondent Triangle, acting through its supervisor and agent, Ralph Ruffalo, bypassed the Union and dealt directly with its employees in the above-described unit by coercing salesmen into accepting a reduction in the rates of commission provided in the collective-bargaining agreement, without prior notice to or bargaining with the Union. Further, on or about December 5, Respondent Triangle, acting through its supervisor and agent, Respondent Ruffalo, bypassed the Union and dealt directly with its employees in the above-described unit by threatening employees with termination if they pursued the wage increase due October 1, 1981, as provided in the collective-bargaining agreement, without prior notice to or bargaining with the Union. Accordingly, we find that Respondent Triangle, by such conduct, has violated Section 8(a)(5) and (1) of the Act.

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[4] *FWD Corporation, supra; Nassau County Health Facilities Association, Inc., et al.*, 227 NLRB 1680 (1977).

Chairman Van de Water agrees with the finding of a violation here because Respondent did not negotiate with the Union but unilaterally implemented changes in wages and working conditions. However, in certain circumstances he might find that economic necessity involving the continued viability of a company might warrant unilateral action after negotiations with a union resulted in an impasse. See *Milwaukee Spring Division of Illinois Coil Spring Company*, 265 NLRB 206, fns. 3 and 7 (1982).

Since in or about September 1981, Respondent Triangle, without notice to or bargaining with the Union, has unilaterally modified the terms of the collective-bargaining agreement with the Union by failing to pay the rates of commission to salesmen as provided in the collective-bargaining agreement. Further, since on or about October 1, 1981, and continuing to date, Respondent Triangle, without notice to or bargaining with the Union, unilaterally modified the terms of the collective-bargaining agreement with the Union by failing to pay the hourly wage to employees as provided in the collective-bargaining agreement. Accordingly, we find that Respondent Triangle, by the foregoing conduct, has violated Section 8(a)(5) and (1) of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondent Triangle set forth in section III, above, occurring in connection with its operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Having found that Respondent Triangle has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act, we shall order that it cease and desist therefrom, and that it take certain affirmative action designed to effectuate the purposes and policies of the Act. We shall order Respondent Triangle to make whole the employees in the appropriate unit by paying to them the difference between the wages or commissions they actually received and the wages or commissions which they would have received absent Respondent Triangle's unlawful conduct. All payments to employees shall be made with interest thereon computed in accordance with the formula set forth in *Florida Steel Corporation*, 231 NLRB 651 (1977) (see generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962)).

The Board, upon the basis of the foregoing facts and the entire record, makes the following:

CONCLUSIONS OF LAW

1. Triangle Appliance and Furniture Mart, Inc., is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Teamsters, Chauffeurs and Helpers Union, Local No. 43, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization within the meaning of Section 2(5) of the Act.

3. All employees of the Employer, including office clerical employees; but excluding guards and supervisors as defined in the Act, constitute a unit of employees appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

4. At all times material herein, the Union has been the exclusive representative of all the employees in the appropriate unit described above for the purposes of collective bargaining within the meaning of Section 9(a) of the Act.

5. By coercing employees, in or about September 1981, into accepting a reduction in the rates of commission provided for in Respondent Triangle's contract with the Union, Respondent Triangle has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

6. By threatening employees, on or about December 5, 1981, with termination if they pursued the wage increase due October 1, 1981, pursuant to Respondent Triangle's contract with the Union, Respondent Triangle has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

7. By bypassing the Union and dealing directly with its employees through the conduct described in paragraphs 5 and 6, without prior notice to or bargaining with the Union as the exclusive representative of its employees in the above-described appropriate unit, Respondent Triangle has engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

8. By failing and refusing since in or about September 1981 to pay the rates of commission to salesmen as provided in the collective-bargaining agreement, and by failing and refusing since on or about December 5, 1981, to pay the hourly wage rates to employees as provided in the collective-bargaining agreement, Respondent Triangle has refused to bargain collectively in good faith, and is refusing to bargain collectively in good faith, with the Union as the exclusive representative of Respondent Triangle's employees in the above-described appropriate unit, and thereby has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

9. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent,

Triangle Appliance and Furniture Mart, Inc., Kenosha, Wisconsin, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Coercing employees into accepting a reduction in the rates of commission provided for in the applicable collective-bargaining agreement entered into with Teamsters, Chauffeurs and Helpers Union, Local No. 43, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, effective by its terms for the period from October 1, 1979, to October 1, 1982.

(b) Threatening employees with termination if they pursue an hourly wage increase provided for in the applicable collective-bargaining agreement.

(c) Bypassing the Union and dealing directly with its employees concerning wages, hours, and other terms and conditions of employment, without prior notice to or bargaining with the Union as the exclusive representative of the employees in the following appropriate unit:

> All employees of the Employer, including office clerical employees; but excluding guards and supervisors as defined in the Act.

(d) Unilaterally refusing to pay the rates of commission to salesmen and the hourly wage rates to employees in the above-described unit, as provided for in the applicable collective-bargaining agreement.

(e) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with the Union as the exclusive bargaining representative of the employees in the unit described in paragraph 1(c) above regarding payment of rates of commission and hourly wage rates provided for in the applicable collective-bargaining agreement.

(b) Make whole the employees in the unit described in paragraph 1(c) above in the manner set forth in the section of this Decision entitled "The Remedy" for its unlawful failure to pay rates of commission and hourly wage rates as required by the applicable collective-bargaining agreement.

(c) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its Kenosha, Wisconsin, facility copies of the attached notice marked "Appendix."[6] Copies of said notice, on forms provided by the Regional Director for Region 30, after being duly signed by Respondent Triangle's representative, shall be posted by Respondent Triangle immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent Triangle to ensure that said notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director for Region 30, in writing, within 20 days from the date of this Order, what steps Respondent Triangle has taken to comply herewith.

[6] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

WE WILL NOT coerce employees into accepting a reduction in the rates of commission provided for in the collective-bargaining agreement entered into with Teamsters, Chauffeurs and Helpers Union, Local No. 43, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, effective by its terms for the period from October 1, 1979, to October 1, 1982.

WE WILL NOT threaten employees with termination if they pursue an hourly wage increase provided for in the applicable collective-bargaining agreement.

WE WILL NOT bypass the Union and deal directly with our employees concerning wages, hours, and other terms and conditions of employment, without prior notice to or bargaining with the Union as the exclusive representative of the employees in the following appropriate unit:

> All employees of the Employer, including office clerical employees; but excluding guards and supervisors as defined in the Act.

WE WILL NOT unilaterally refuse to pay the rates of commission to salesmen and the hourly wage rates to employees in the above-described unit, as provided for in the applicable collective-bargaining agreement.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them in Section 7 of the Act.

WE WILL, upon request, bargain collectively with the Union as the exclusive bargaining representative of the employees in the above-described unit regarding payment of rates of commission and hourly wage rates provided for in the applicable collective-bargaining agreement.

WE WILL make whole, with interest, the employees in the above-described unit for our unlawful failure to pay rates of commission and hourly wage rates provided for in the applicable collective-bargaining agreement.

TRIANGLE APPLIANCE AND FURNITURE MART, INC.